

As Introduced

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H. B. No. 474

Representatives Baker, Deeter

To amend sections 3721.28, 3721.29, and 3721.30 of
the Revised Code to enact the Ohio Dementia Care
Training Act for Nurse Aides.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3721.28, 3721.29, and 3721.30 of
the Revised Code be amended to read as follows:

Sec. 3721.28. (A) (1) Each nurse aide used by a long-term
care facility on a full-time, temporary, per diem, or other
basis on July 1, 1989, shall be provided by the facility a
competency evaluation program approved by the director of health
under division (A) of section 3721.31 of the Revised Code or
conducted by the director under division (C) of that section.
Each long-term care facility using a nurse aide on July 1, 1989,
shall provide the nurse aide the preparation necessary to
complete the competency evaluation program by January 1, 1990.

(2) Each nurse aide used by a long-term care facility on a
full-time, temporary, per diem, or other basis on January 1,
1990, who either was not used by the facility on July 1, 1989,
or was used by the facility on July 1, 1989, but had not
successfully completed a competency evaluation program by
January 1, 1990, shall be provided by the facility a competency

evaluation program approved by the director under division (A) 21
of section 3721.31 of the Revised Code or conducted by the 22
director under division (C) of that section. Each long-term care 23
facility using a nurse aide described in division (A) (2) of this 24
section shall provide the nurse aide the preparation necessary 25
to complete the competency evaluation program by October 1, 26
1990, and shall assist the nurse aide in registering for the 27
program. 28

(B) Effective June 1, 1990, no long-term care facility 29
shall use an individual as a nurse aide for more than four 30
months unless the individual is competent to provide the 31
services the individual is to provide, the facility has received 32
from the nurse aide registry established under section 3721.32 33
of the Revised Code the information concerning the individual 34
provided through the registry, and one of the following is the 35
case: 36

(1) The individual was used by a facility as a nurse aide 37
on a full-time, temporary, per diem, or other basis at any time 38
during the period commencing July 1, 1989, and ending January 1, 39
1990, and successfully completed, not later than October 1, 40
1990, a competency evaluation program approved by the director 41
under division (A) of section 3721.31 of the Revised Code or 42
conducted by the director under division (C) of that section. 43

(2) The individual has successfully completed a training 44
and competency evaluation program approved by the director under 45
division (A) of section 3721.31 of the Revised Code or conducted 46
by the director under division (C) of that section or has met 47
the conditions specified in division (F) (1) or (2) of this 48
section and, in addition, if the training and competency 49
evaluation program or the training, instruction, or education 50

the individual completed in meeting the conditions specified in 51
division (F) (1) or (2) of this section was conducted by or in a 52
long-term care facility, the individual has successfully 53
completed a competency evaluation program conducted by the 54
director. 55

(3) Prior to July 1, 1989, if the long-term care facility 56
is certified as a skilled nursing facility or a nursing facility 57
under Title XVIII or XIX of the "Social Security Act," 49 Stat. 58
620 (1935), 42 U.S.C.A. 301, as amended, or prior to January 1, 59
1990, if the facility is not so certified, the individual 60
completed a program that the director determines included a 61
competency evaluation component no less stringent than the 62
competency evaluation programs approved by the director under 63
division (A) of section 3721.31 of the Revised Code or conducted 64
by the director under division (C) of that section, and was 65
otherwise comparable to the training and competency evaluation 66
programs being approved by the director under division (A) of 67
that section. 68

(4) The individual is listed in a nurse aide registry 69
maintained by another state and that state certifies that its 70
program for training and evaluation of competency of nurse aides 71
complies with Titles XVIII and XIX of the "Social Security Act" 72
and regulations adopted thereunder. 73

(5) Prior to July 1, 1989, the individual was found 74
competent to serve as a nurse aide after the completion of a 75
course of nurse aide training of at least one hundred hours' 76
duration. 77

(6) The individual is enrolled in a prelicensure program 78
of nursing education approved by the board of nursing or by an 79
agency of another state that regulates nursing education, has 80

provided the long-term care facility with a certificate from the 81
program indicating that the individual has successfully 82
completed the courses that teach basic nursing skills including 83
infection control, safety and emergency procedures, and personal 84
care, and has successfully completed a competency evaluation 85
program conducted by the director under division (C) of section 86
3721.31 of the Revised Code. 87

(7) The individual has the equivalent of twelve months or 88
more of full-time employment in the preceding five years as a 89
hospital aide or orderly and has successfully completed a 90
competency evaluation program conducted by the director under 91
division (C) of section 3721.31 of the Revised Code. 92

(8) The individual has successfully completed a 93
prelicensure program of nursing education approved by the board 94
of nursing under section 4723.06 of the Revised Code or by an 95
agency of another state that regulates nursing education and has 96
passed the examination accepted by the board of nursing under 97
section 4723.10 of the Revised Code, which shall be deemed as 98
the successful completion of a competency evaluation program 99
conducted by the director under division (C) of section 3721.31 100
of the Revised Code. 101

(C) Effective June 1, 1990, no long-term care facility 102
shall continue for longer than four months to use as a nurse 103
aide an individual who previously met the requirements of 104
division (B) of this section but since most recently doing so 105
has not performed nursing and nursing-related services for 106
monetary compensation for twenty-four consecutive months, unless 107
the individual successfully completes additional training and 108
competency evaluation by complying with divisions (C) (1) and (2) 109
of this section: 110

(1) Doing one of the following:	111
(a) Successfully completing a training and competency	112
evaluation program approved by the director under division (A)	113
of section 3721.31 of the Revised Code or conducted by the	114
director under division (C) of that section;	115
(b) Successfully completing a training and competency	116
evaluation program described in division (B) (4) of this section;	117
(c) Meeting the requirements specified in division (B) (6)	118
or (7) of this section.	119
(2) If the training and competency evaluation program	120
completed under division (C) (1) (a) of this section was conducted	121
by or in a long-term care facility, successfully completing a	122
competency evaluation program conducted by the director.	123
(D) (1) The four-month periods provided for in divisions	124
(B) and (C) of this section include any time, on or after June	125
1, 1990, that an individual is used as a nurse aide on a full-	126
time, temporary, per diem, or any other basis by the facility or	127
any other long-term care facility.	128
(2) During the four-month period provided for in division	129
(B) of this section, during which a long-term care facility may,	130
subject to division (E) of this section, use as a nurse aide an	131
individual who does not have the qualifications specified in	132
divisions (B) (1) to (7) of this section, a facility shall	133
require the individual to comply with divisions (D) (2) (a) and	134
(b) of this section:	135
(a) Participate in one of the following:	136
(i) If the individual has successfully completed a	137
training and competency evaluation program approved by the	138

director under division (A) of section 3721.31 of the Revised 139
Code, and the program was conducted by or in a long-term care 140
facility, a competency evaluation program conducted by the 141
director; 142

(ii) If the individual is enrolled in a prelicensure 143
program of nursing education described in division (B) (6) of 144
this section and has completed or is working toward completion 145
of the courses described in that division, or the individual has 146
the experience described in division (B) (7) of this section, a 147
competency evaluation program conducted by the director; 148

(iii) A training and competency evaluation program 149
approved by the director under division (A) of section 3721.31 150
of the Revised Code or conducted by the director under division 151
(C) of that section. 152

(b) If the individual participates in or has successfully 153
completed a training and competency evaluation program under 154
division (D) (2) (a) (iii) of this section that is conducted by or 155
in a long-term care facility, participate in a competency 156
evaluation program conducted by the director. 157

(3) During the four-month period provided for in division 158
(C) of this section, during which a long-term care facility may, 159
subject to division (E) of this section, use as a nurse aide an 160
individual who does not have the qualifications specified in 161
divisions (C) (1) and (2) of this section, a facility shall 162
require the individual to comply with divisions (D) (3) (a) and 163
(b) of this section: 164

(a) Participate in one of the following: 165

(i) If the individual has successfully completed a 166
training and competency evaluation program approved by the 167

director, and the program was conducted by or in a long-term 168
care facility, a competency evaluation program conducted by the 169
director; 170

(ii) If the individual is enrolled in a prelicensure 171
program of nursing education described in division (B)(6) of 172
this section and has completed or is working toward completion 173
of the courses described in that division, or the individual has 174
the experience described in division (B)(7) of this section, a 175
competency evaluation program conducted by the director; 176

(iii) A training and competency evaluation program 177
approved or conducted by the director. 178

(b) If the individual participates in or has successfully 179
completed a training and competency evaluation program under 180
division (D)(3)(a)(iii) of this section that is conducted by or 181
in a long-term care facility, participate in a competency 182
evaluation program conducted by the director. 183

(E) A long-term care facility shall not permit an 184
individual used by the facility as a nurse aide while 185
participating in a training and competency evaluation program to 186
provide nursing and nursing-related services unless both of the 187
following are the case: 188

(1) The individual has completed the number of hours of 189
training that must be completed prior to providing services to 190
residents as prescribed by rules that shall be adopted by the 191
director in accordance with Chapter 119. of the Revised Code; 192

(2) The individual is under the personal supervision of a 193
registered or licensed practical nurse licensed under Chapter 194
4723. of the Revised Code. 195

(F) An individual shall be considered to have satisfied 196

the requirement, under division (B) (2) of this section, of 197
having successfully completed a training and competency 198
evaluation program conducted or approved by the director, if 199
either of the following apply: 200

(1) The individual, as of July 1, 1989, met both of the 201
following conditions: 202

(a) Completed at least sixty hours divided between skills 203
training and classroom instruction in the topic areas described 204
in ~~divisions~~ division (B) (1) ~~to (8)~~ of section 3721.30 of the 205
Revised Code; 206

(b) Received at least the difference between seventy-five 207
hours and the number of hours actually spent in training and 208
competency evaluation in supervised practical nurse aide 209
training or regular in-service nurse aide education. 210

(2) The individual meets both of the following conditions: 211

(a) Has completed during the COVID-19 public health 212
emergency declared by the United States secretary of health and 213
human services a minimum of seventy-five hours of training that 214
occurs in a long-term care facility setting, includes on-site 215
observation and work as a nurse aide under a COVID-19 pandemic 216
waiver issued by the federal centers for medicare and medicaid 217
services, and addresses all of the required areas specified in 218
42 C.F.R. 483.152(b), except that if gaps in on-site training 219
are identified, the individual also must complete supplemental 220
training; 221

(b) Has successfully completed the competency evaluation 222
conducted by the director of health under section 3721.31 of the 223
Revised Code. 224

(G) The director shall adopt rules in accordance with 225

Chapter 119. of the Revised Code specifying persons, in addition 226
to the director, who may establish competence of nurse aides 227
under division (B) (5) of this section, and establishing criteria 228
for determining whether an individual meets the conditions 229
specified in division (F) (1) of this section. 230

(H) The rules adopted pursuant to divisions (E) (1) and (G) 231
of this section shall be no less stringent than the 232
requirements, guidelines, and procedures established by the 233
United States secretary of health and human services under 234
sections 1819 and 1919 of the "Social Security Act." 235

Sec. 3721.29. In addition to competency evaluation 236
programs and training and competency evaluation programs 237
required by this chapter, each long-term care facility shall 238
provide both of the following to each nurse aide it uses: 239

(A) An orientation program that includes at least an 240
explanation of the organizational structure of the facility, its 241
policies and procedures, its philosophy of care, a description 242
of its resident population, and an enumeration of its employee 243
rules; 244

(B) Regular performance review and in-service education to 245
assure that individuals working in the facility as nurse aides 246
are competent to perform the nursing and nursing-related 247
services they perform. In-service education shall include 248
training for nurse aides providing nursing and nursing-related 249
services to residents and patients with cognitive impairments, 250
including two hours annually of dementia-specific training that 251
meets the requirements for training and competency evaluation 252
programs under division (B) (2) of section 3721.30 of the Revised 253
Code. 254

The director of health shall adopt rules to implement the 255
purposes of this section. The rules shall be no less stringent 256
than the requirements, guidelines, and procedures established by 257
the United States secretary of health and human services under 258
sections 1819 and 1919 of the "Social Security Act," 49 Stat. 259
620 (1935), 42 U.S.C.A. 301, as amended. 260

Sec. 3721.30. (A) (1) A training and competency evaluation 261
program approved by the director of health under division (A) of 262
section 3721.31 of the Revised Code or a competency evaluation 263
program conducted by the director under division (C) of that 264
section shall evaluate the competency of a nurse aide in the 265
following areas: 266

- (a) Basic nursing skills; 267
- (b) Personal care skills; 268
- (c) Recognition of mental health and social service needs; 269
- (d) Care of residents with cognitive impairments; 270
- (e) Basic restorative services; 271
- (f) Residents' rights; 272
- (g) Any other area specified by rule of the director. 273

(2) Any training and competency evaluation program 274
approved or competency evaluation program conducted by the 275
director may include a written examination, but shall permit a 276
nurse aide, at the nurse aide's option, to establish competency 277
in another manner approved by the director. A nurse aide shall 278
be permitted to have the competency evaluation conducted at the 279
long-term care facility at which the nurse aide is or will be 280
employed, unless the facility has been determined by the 281
director or the United States secretary of health and human 282

services to have been out of compliance with the requirements of 283
subsection (b), (c), or (d) of section 1819 or 1919 of the 284
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 285
amended, within the previous two years. 286

(B) A training and competency evaluation program approved 287
or conducted by the director under section 3721.31 of the 288
Revised Code shall consist of training and competency evaluation 289
specified by the director in rules adopted under division ~~(C)~~(G) 290
of this section, including ~~a~~: 291

(1) A minimum of seventy-five hours divided between skills 292
training and classroom instruction in the following topic areas: 293

~~(1)~~(a) Basic nursing skills; 294

~~(2)~~(b) Personal care skills; 295

~~(3)~~(c) Recognition of mental health and social service 296
needs; 297

~~(4)~~(d) Care of residents with cognitive impairments; 298

~~(5)~~(e) Basic restorative services; 299

~~(6)~~(f) Residents' rights; 300

~~(7)~~(g) Needs of various groups of long-term care facility 301
residents and patients; 302

~~(8)~~(h) Other topic areas specified by rule of the 303
director. 304

(2) Beginning not later than one hundred eighty days after 305
the effective date of this amendment, a minimum of two hours of 306
dementia-specific training on the following topics: 307

(a) An overview of dementia, including its different 308
types; 309

<u>(b) Communication techniques for interacting with</u>	310
<u>individuals with dementia;</u>	311
<u>(b) Behavioral symptoms of individuals with dementia and</u>	312
<u>management of those symptoms;</u>	313
<u>(c) Person-centered care practices;</u>	314
<u>(d) Promoting dignity, independence, and quality of life</u>	315
<u>for individuals with dementia;</u>	316
<u>(e) Nursing home resident rights established under section</u>	317
<u>3721.13 of the Revised Code.</u>	318
<u>(C) The department of health shall approve dementia-</u>	319
<u>specific training programs that meet the requirements described</u>	320
<u>in division (B) (2) of this section, including any of the</u>	321
<u>following:</u>	322
<u>(1) Accredited in-person or online courses;</u>	323
<u>(2) Programs developed or endorsed by recognized dementia</u>	324
<u>care organizations, including the essentiALZ program offered by</u>	325
<u>the Alzheimer's association;</u>	326
<u>(3) State provided or licensed training modules;</u>	327
<u>(4) Programs developed by a nursing home or residential</u>	328
<u>care facility.</u>	329
<u>(D) Each nursing home and residential care facility shall</u>	330
<u>maintain records of compliance under division (B) (2) of this</u>	331
<u>section for each nurse aid employed by the home or facility.</u>	332
<u>(E) No nurse aide shall provide direct care to residents</u>	333
<u>with dementia until the nurse aide has completed the training</u>	334
<u>required under division (B) (2) of this section.</u>	335
<u>(F) If the director of health determines that a nursing</u>	336

home or residential care facility has violated or failed to 337
comply with the dementia-specific training requirements under 338
division (B) (2) of this section, the director may do any of the 339
following: 340

(1) Impose a fine in an amount determined by the director; 341

(2) Request a licensee to submit an acceptable plan of 342
correction to the director; 343

(3) In accordance with section 3721.07 of the Revised 344
Coke, revoke a license to operate. 345

(G) In accordance with Chapter 119. of the Revised Code, 346
the director shall adopt rules establishing procedures and 347
criteria for approval of training and competency evaluation 348
programs. The requirements established by rules shall be no less 349
stringent than the requirements, guidelines, and procedures 350
established by the United States secretary of health and human 351
services under sections 1819 and 1919 of the "Social Security 352
Act." The director also shall adopt rules governing all of the 353
following: 354

(1) Procedures for determination of an individual's 355
competency to perform services as a nurse aide; 356

(2) The curriculum of training and competency evaluation 357
programs; 358

(3) The clinical supervision and physical facilities used 359
for training and competency evaluation programs; 360

(4) The number of hours of training required in training 361
and competency evaluation programs; 362

(5) The qualifications for instructors, coordinators, and 363
evaluators of training and competency evaluation programs, 364

except that the rules shall not require an instructor for a 365
training and competency evaluation program to have nursing home 366
experience if the program is under the general supervision of a 367
coordinator who is a registered nurse who possesses a minimum of 368
two years of nursing experience, at least one of which is in the 369
provision of services in a nursing home or intermediate care 370
facility for individuals with intellectual disabilities; 371

(6) Requirements that training and competency evaluation 372
programs must meet to retain approval; 373

(7) Standards for successful completion of a training and 374
competency evaluation program; 375

(8) Procedures and criteria for review and reapproval of 376
training and competency evaluation programs; 377

(9) Fees for application for approval or reapproval of 378
training and competency evaluation programs and programs to 379
train instructors, coordinators, and evaluators for training and 380
competency evaluation programs; 381

(10) Fees for participation in any training and competency 382
evaluation program or other program conducted by the director 383
under section 3721.31 of the Revised Code; 384

(11) Procedures for reporting to the nurse aide registry 385
established under section 3721.32 of the Revised Code whether or 386
not individuals participating in training and competency 387
evaluation programs have successfully completed the programs. 388

~~(D)~~ (H) In accordance with Chapter 119. of the Revised 389
Code, the director may adopt rules prescribing criteria and 390
procedures for approval of training programs for instructors, 391
coordinators, and evaluators for competency evaluation programs 392
and training and competency evaluation programs. The director 393

may adopt other rules that the director considers necessary for 394
the administration and enforcement of sections 3721.28 to 395
3721.34 of the Revised Code or for compliance with requirements, 396
guidelines, or procedures issued by the United States secretary 397
of health and human services for implementation of section 1819 398
or 1919 of the "Social Security Act." 399

~~(F)~~ (I) No person or government entity shall impose on a 400
nurse aide any charge for participation in any competency 401
evaluation program or training and competency evaluation program 402
approved or conducted by the director under section 3721.31 of 403
the Revised Code, including any charge for textbooks, other 404
required course materials, or a competency evaluation. 405

~~(F)~~ (J) No person or government entity shall require that 406
an individual used by the person or government entity as a nurse 407
aide or seeking employment as a nurse aide pay or repay, either 408
before or while the individual is employed by the person or 409
government entity or when the individual leaves the person or 410
government entity's employ, any costs associated with the 411
individual's participation in a competency evaluation program or 412
training and competency evaluation program approved or conducted 413
by the director. 414

(K) As used in this section, "dementia" has the same 415
meaning as in section 5163.03 of the Revised Code. 416

Section 2. That existing sections 3721.28, 3721.29, and 417
3721.30 of the Revised Code are hereby repealed. 418

Section 3. This act shall be known as the Ohio Dementia 419
Care Training Act for Nurse Aides. 420